

**§ 54B-46. Conversion of bank to stock association.**

(a) Any bank, as defined in G.S. 53C-1-4(4), may convert to a stock association as provided in this section.

(b) Any bank, upon a majority vote of its board of directors, may apply to the Commissioner of Banks for permission to convert to a stock association and for certification of appropriate amendments to the bank's certificate of incorporation to effect the conversion.

(c) The bank shall submit a plan of conversion as a part of the application to the Commissioner of Banks. The Commissioner of Banks may recommend approval of the plan of conversion with or without amendment. The Commissioner of Banks shall recommend approval of the plan of conversion if upon examination and investigation he finds that:

- (1) The resulting stock association will operate in a safe, sound, and prudent manner with adequate capital, liquidity, and earnings prospects;
- (2) The directors, officers, and other managerial officials of the bank are qualified by character and financial responsibility to control and operate in a legal and proper manner the stock association proposed to be formed as a result of the conversion;
- (3) The interest of the depositors, the creditors, and the public generally will not be jeopardized by the proposed conversion; and
- (4) The proposed name will not mislead the public as to the character or purpose of the resulting stock association, and the proposed name is not the same as one already adopted or appropriated by an existing association in this State or so similar as to be likely to mislead the public.

(d) Any action taken by the Commissioner of Banks pursuant to this section shall be subject to review by the Commission which may approve, modify, or disapprove any action taken or recommended by the Commissioner of Banks. The Commission may promulgate rules to govern conversions undertaken pursuant to this section. The requirements for a converting bank shall be no more stringent than those provided by rule or regulation applicable to other FDIC-insured stock associations. The requirements for a converting bank shall be no less stringent than those provided by rule or regulation applicable to other FDIC-insured stock associations, except as may be allowed during transition periods permitted by subdivisions (e)(4) and (h)(2) of this section.

(e) In the absence of the promulgation of rules under subsection (d), the conditions to be met for approval of the application for conversion should include the following:

- (1) Condition. The applicant's general condition must reflect adequate capital, liquidity, reserves, earnings, and asset composition necessary for safe and sound operation of the resulting stock association.
- (2) Management. The management and the board of directors must be capable of supervising a sound stock association operation and overseeing the changes that must be accomplished in the conversion from a bank to a stock association.
- (3) Public Convenience. The Commission must determine that the conversion will have a positive impact on the convenience of the public and will not substantially reduce the services available to the public in the market area.
- (4) Transition. Within a reasonable time after the effective date of the conversion, the resulting stock association must divest itself of all assets and liabilities that do not conform to State banking law or rules. The length of this transition period shall be determined by the Commissioner of Banks and shall be specified when the application for conversion is approved.

In evaluating each of these conditions, the Commission shall consider a comparison of the relevant financial ratios of the applicant with the average ratios of North Carolina stock

associations of similar asset size. The Commission may not approve a conversion where the applicant presents an undue supervisory concern or has not been operated in a safe and sound manner.

(f) If the Commissioner of Banks approves the plan of conversion, then the bank shall submit the plan to the stockholders as provided in subsection (g). After approval of the plan of conversion, the Commissioner of Banks shall supervise and monitor the conversion process and shall ensure that the conversion is conducted pursuant to law and the bank's approved plan of conversion.

(g) After lawful notice to the stockholders of the bank and full and fair disclosure of the plan of conversion, the plan must be approved by a majority of the total votes that stockholders of the bank are eligible and entitled to cast. The vote by the stockholders may be in person or by proxy. Following the vote of the stockholders, the bank shall file with the Commissioner of Banks the results of the vote certified by an appropriate officer of the bank. The Commissioner of Banks shall approve the requested conversion and the bank shall file with the Secretary of State amended articles of incorporation with the certificate of the Commissioner of Banks attached. The conversion of the bank to a stock association shall be effective upon this filing.

(h) The Commissioner of Banks may authorize the resulting stock association to do the following:

- (1) Wind up any activities legally engaged in by the bank at the time of conversion but not permitted to stock associations.
- (2) Retain for a transitional period any assets and deposit liabilities legally held by the bank at the effective date of the conversion that may not be held by stock associations.

The length, terms, and conditions of the transitional periods under subdivisions (1) and (2) are subject to the discretion of the Commissioner of Banks, but may not exceed five years after the effective date of the conversion.

(i) Upon conversion of a bank to a stock association, the legal existence of the bank does not terminate, and the resulting stock association is a continuation of the bank. The conversion shall be a mere change in identity or form of organization. All rights, liabilities, obligations, interest, and relations of whatever kind of the bank shall continue and remain in the resulting stock association. Except as may be authorized during a transitional period by the Commissioner of Banks pursuant to subsection (h), a stock association resulting from the conversion of a bank shall have only those rights, powers, and duties which are authorized for stock associations by the laws of this State and the United States. All actions and legal proceedings to which the bank was a party prior to conversion shall be unaffected by the conversion and proceed as if the conversion had not taken place. (1989 (Reg. Sess., 1990), c. 845, s. 2; 2001-193, s. 16; 2012-56, s. 38.)